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[12510/20]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Michael GABRIEL et al.

Examiner: Scott E. Beliveau

Filed: July 25, 2003

Serial No.: 10/627,002

For: SYSTEM AND METHOD FOR CONTENT ACCESS CONTROL THROUGH DEFAULT PROFILES AND METADATA POINTERS

Confirmation No.: 3720

Art Unit: 2623

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Date: April 4, 2008

Signature: _____
Michelle M. Carniaux (Reg. No. 36,098)

TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith for filing is a Reply Brief in response to the Examiner's Answer dated February 6, 2008. The Reply Brief is timely filed as the two-month response period expires on April 6, 2008.

While no fee is believed to be due, the Commissioner is authorized to charge any fees or credit any overpayment in connection with this paper to Deposit Account 11-0600.

Respectfully submitted,

KENYON & KENYON LLP

Dated: April 4, 2008

By: _____
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Enclosure

[12510/20]

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Atty's Signature
MICHELLE CARNIAUX
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Mail Stop Appeal Brief - Patents
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REPLY BRIEF UNDER 37 C.F.R. § 41.41

SIR:

Appellants submit the present Reply Brief in response to the Examiner's Answer dated February 6, 2008.

Claims 1, 17, 22, and 31 have been canceled. Claims 2 to 16, 18 to 21, 23 to 30, and 32 to 35 have been finally rejected.

For the reasons set forth in the Appeal Brief and those set forth below, it is again respectfully submitted that the final rejections of claims 2 to 16, 18 to 21, 23 to 30, and 32 to 35 should be reversed.

Appellants incorporate herein arguments previously presented in the Appeal Brief dated October 18, 2007. In addition, the following comments are presented to further highlight the differences between the claimed subject matter and the applied prior art references.

Claims 2 to 5, 9 to 14, 16, 19, 20, 21, 23 to 25, 27 to 30, and 32 to 35 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 6,785,901 ("Horiwitz et al.") and U.S. Patent No. 6,704,929 ("Ozer et al."). It is respectfully submitted that the combination of Horiwitz et al. and Ozer et al. does not render unpatentable any of the present claims for at least the following reasons.

Claim 9 relates to a method to control access to content via a player system accessible by a plurality of users, and recites, *inter alia*, the following:

> . . . comparing metadata associated with a selected content and the filtering criterion of the default profile, the metadata including information related to the selected content; and
>
> permitting or denying access to the content based on the comparison, wherein the metadata is associated with the selected content using a URL in connection with the selected content, and wherein the method further comprises obtaining the metadata using the URL, wherein the URL associates the metadata with the selected content.

Horiwitz et al. describe locking and unlocking of program content. The locking is based on information, such as rating information, in an electronic program guide. This Examiner essentially admits that the rating information in Horiwitz et al. is not described as being associated with a particular content using a URL. For this feature of claim 9, the Examiner relies on Ozer et al. and U.S. Patent Application No. 09/376,631 (the "Ozer '631 application"), which Ozer et al. incorporate by reference. In particular, the Examiner refers to the discussion of "markers" in the Ozer '631 application.

However, Ozer et al., including the text of the Ozer '631 application, is unrelated to metadata used for permitting or denying access to content, and Horiwitz et al., modified based on the teachings of Ozer et al., would not disclose the features of claim 9 of permitting or denying access to content based on a comparison to metadata which is obtained using a URL.

In the Examiner's Answer, the Examiner states that "Appellant does not argue that the relied upon references teach all of the claimed limitations [but] only argues that one having ordinary skill in the art would simply not have been motivated to use the teachings of Horowitz et al. in combination with the Ozer ('939) [*sic*] patent and co-pending/incorporated Ozer ('639) application." This statement mischaracterizes Appellants' position. Rather, Appellants maintain that the combined teachings of the references would not disclose the features of claim 9.

In the Ozer '631 application, a URI, which may be a URL, is used as a marker included in an advertisement provided to a local device. Any metadata which might be stored at an address specified by the URI is not accessed by the local device. Instead, the local device merely records the URI as a log of viewed advertisements. Multiple such logs from multiple devices are provided for analysis to a clearing house, which may access the content at the address included in the logged URI. In other words, use of the URI in the Ozer '631 application is not by a local viewing device. Thus, the Ozer '631 application does not disclose or suggest providing a URL to a local viewing device for the local viewing device to access data stored at the location referenced by the URL. Instead, all data that is to be used by the local device is sent initially and directly to the local device. Accordingly, modification of the system of Horiwitz et al. according to teachings of Ozer et al. would not disclose, for example, providing a URL to a local viewing device of Horiwitz et al. in order for the local viewing device to access the location referenced by the URL to obtain data necessary for the locking or unlocking discussed in Horiwitz et al. Neither of the references, whether considered alone or in combination, suggest such a modification to the system of Horiwitz et al.

At most, Ozer et al., including the Ozer '631 application, indicate that data can be referenced using a URL. However, merely because a URL can be used for accessing data stored at an address indicated by the URL does not provide any suggestion to modify the system of Horiwitz et al. to provide for the program content unlocking using metadata accessed via a URL. For example, in Ozer et al., there is a particular reason for using the URL, which is that the device to which the URL is initially provided does not at all use the data at the referenced address. With respect to data that is used by the local device, a URL is not provided. Therefore, while modification of Horiwitz et al. in view of Ozer et al. might result in the system of Horiwitz et al. providing some data to the local viewing device of Horiwitz et al using a URL, e.g., data that is not accessed by the local device, the modification would not result in the system of Horiwitz et al. providing access to the data used for the unlocking via a URL.

Therefore, with respect to metadata used for permitting or denying access to content based on a comparison of the metadata and filtering criterion of a profile, the combination of Horiwitz et al. and Ozer et al. does not disclose obtaining such data using a URL. Indeed, the particular modification of Horiwitz et al. in view of Ozer et al. as suggested by the Examiner to provide for the precise features required by claim 9 would have

been completely unpredictable and suggestion of such modification necessarily relies on improper hindsight reasoning based on Appellants' disclosure.

For all of the foregoing reasons and the reasons more fully set forth in the Appeal Brief, the combination of Horiwitz et al. and Ozer et al. does not disclose or suggest "comparing metadata associated with a selected content and the filtering criterion of the default profile . . . and permitting or denying access to the content based on the comparison, wherein the metadata is associated with the selected content using a URL in connection with the selected content, and wherein the method further comprises obtaining the metadata using the URL," as provided for in the context of claim 9.

Therefore, the combination of Horiwitz et al. and Ozer et al. does not disclose or suggest each feature recited in claim 9, so that the combination of Horiwitz et al. and Ozer et al. does not render unpatentable claim 9.

Claim 10 includes subject matter analogous to that of claim 9, so that claim 10 and its dependent claims, e.g., claims 2 to 5, 11 to 14, and 16, are allowable for at least essentially the same reasons as claim 9.

Claim 21 includes subject matter analogous to that of claim 9, so that claim 21 and its dependent claims, e.g., claims 19, 20, and 23 to 25, are allowable for at least essentially the same reasons as claim 9.

Claim 27 includes subject matter analogous to that of claim 9, so that claim 27 and its dependent claims, e.g., claims 28 and 29, are allowable for at least essentially the same reasons as claim 9.

Claim 30 includes subject matter analogous to that of claim 9, so that claim 30 and its dependent claim 32 are allowable for at least essentially the same reasons as claim 9.

Claim 33 includes subject matter analogous to that of claim 9, so that claim 30 and its dependent claim 34 are allowable for at least essentially the same reasons as claim 9.

Claim 35 includes subject matter analogous to that of claim 9, so that claim 35 is allowable for at least essentially the same reasons as claim 9.

Reversal of this rejection of claims 2 to 5, 9 to 14, 16, 19, 20, 21, 23 to 25, 27 to 30, and 32 to 35 is therefore respectfully requested.

Claims 6 and 26 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Horiwitz et al., Ozer et al., and U.S. Patent Application Publication No. 2003/0088420 ("alSafadi et al."). It is respectfully submitted that the combination of Horiwitz et al., Ozer et al., and alSafadi et al. does not render unpatentable any of the present claims for at least the following reasons.

Claim 6 depends from claim 10 and claim 26 depends from claim 21, so that the combination of Horiwitz et al., Ozer et al., and alSafadi et al. does not render unpatentable either of claims 6 and 26 for at least the same reasons set forth above in support of the patentability of claims 10 and 21, respectively, since alSafadi et al. do not correct the critical deficiencies noted above with respect to the combination of Horiwitz et al. and Ozer et al.

Reversal of this rejection of claims 6 and 26 is therefore respectfully requested.

Claims 7, 8, 15, and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Horiwitz et al., Ozer et al., and U.S. Patent Application Publication No. 2003/0014750 A1 ("Kamen"). It is respectfully submitted that the combination of Horiwitz et al., Ozer et al., and Kamen does not render unpatentable any of the present claims for at least the following reasons.

Claims 7, 8, and 15 ultimately depend from claim 10 and claim 18 depends from claim 21, so that the combination of Horiwitz et al., Ozer et al., and Kamen does not render unpatentable any of claims 7, 8, 15, and 18 for at least the same reasons set forth above in support of the patentability of claims 10 and 21, respectively, since Kamen does not correct the critical deficiencies noted above with respect to the combination of Horiwitz et al. and Ozer et al.

As further regards claims 7, 8, and 18, claim 18, for example, recites that the selected content, with which metadata is compared for permitting or denying rendering of the selected content, is provided on a removable medium. Claim 7, from which claim 8 depends, includes analogous subject matter. The combination of Horiwitz et al., Ozer et al., and Kamen does not disclose or suggest these features. In the Examiner's Answer, the Examiner asserts that Ozer et al. do not teach away from this feature. However, as more fully set forth below, the relied upon references as a whole do teach away from these features.

Horiwitz et al. relate to locking and unlocking content. While Horiwitz et al. may indicate that content may be recorded, Horiwitz et al. do not disclose or suggest that unlocking or locking is performed with respect to locally stored content. At most,

Horiwitz et al. indicate that content which has been unlocked may be locally stored. Thus, Horiwitz et al. do not disclose or suggest performing any permitting or denying of rendering content provided on a removable media.

Kamen provide for parental control of content by allowing the set up of multiple profiles with different passwords, where different profiles/passwords are associated with different access rights. When content is initially provided and recorded, the content may be recorded under one of the profiles, thereafter requiring entry of the associated password in order to access the recording. However, for any accessed profile, once content has already been recorded, e.g., on a removable media, no further determination is made with respect to locking or unlocking content. As stated in Kamen, "even in cases where individual users have separate directories, or accounts, only each user's entire directory may be locked or unlocked." Indeed, Kamen suggests that, once it has been determined that content is unlocked to allow for its local recordation, there is no further reason to perform an unlocking procedure, and indeed no further unlocking procedure is performed (except to require that the conditions under which access of content is attempted, *i.e.*, the entered password, match the conditions under which the its initial recordation was performed, *i.e.*, the password with which its recordation was performed, which procedure does not disclose or suggest the features of claim 18). Accordingly, even if Horiwitz et al. is modified to include the features taught by Kamen, the resulting combinatory system would not disclose or suggest "a processor configured to compare metadata associated with selected content [provided on a removable media] and the filtering criterion of the default profile, the processor configured to permit or deny rendering of the selected content based on the comparison," as required by claim 18.

Ozer et al. are completely unrelated to locking/unlocking or permitting/denying accessing or rendering of content and therefore do not correct the critical deficiencies of the combination of Horiwitz et al. and Kamen. Specifically, Ozer et al. do not provide any suggestion or motivation for modifying the combination of Horiwitz et al. and Kamen to provide for locking/unlocking content provided on a removable media based on a comparison of metadata associated with the content and filtering criterion of a profile.

For this additional reason, the combination of Horiwitz et al., Ozer et al., and Kamen does not disclose or suggest all of the features of claims 7, 8, and 18, so that the combination of Horiwitz et al., Ozer et al., and Kamen does not render unpatentable those dependent claims for this additional reason.

Reversal of this rejection of claims 7, 8, 15, and 18 is therefore respectfully requested.

For at least the reasons indicated above, Appellants respectfully submit that the relied upon references do not disclose or suggest Appellants' invention as recited in the claims of the above-identified application. Accordingly, it is respectfully submitted that the inventions recited in the claims of the present application are new, non-obvious, and useful.

For the foregoing reasons and for the reasons more fully set forth in the Appeal Brief, it is respectfully submitted that the final rejections of the pending claims should be reversed.

Respectfully submitted,

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Dated: 4 April 2008

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